



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

ACTION MEMORANDUM - RV3

DATE: DEC - 6 2018

SUBJECT: Action Memorandum for an Emergency Removal Action ("RV3") at the Deferiet Paper Mill Site in Deferiet, Jefferson County, New York

FROM: Joel Petty, On-Scene Coordinator
Removal Action Branch

THRU: Joseph D. Rotola, Chief
Removal Action Branch

TO: Angela B. Carpenter, Acting Director
Emergency and Remedial Response Division

SITE ID: A26F

I. PURPOSE

The purpose of this Action Memorandum is to document the verbal authorization of funding for and decision to initiate a Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") emergency removal action ("RV3") described herein for the Deferiet Paper Mill Site ("Site") located in Deferiet, Jefferson County, New York. The Site is the location of a former, now dilapidated paper mill which is being partially utilized as a power generation facility for a hydroelectric dam. Due to building disrepair, deteriorating friable asbestos presented a direct contact and inhalation threat to facility occupants.

On October 12, 2018, the EPA On-Scene Coordinator ("OSC") requested and was granted verbal authorization pursuant to CERCLA to initiate an emergency removal action (RV3) at the Site. Authorization was granted by the Acting Director of the Emergency and Remedial Response Division ("ERRD"). This removal action was initiated on October 12, 2018 and completed on October 17, 2018. An initial emergency removal action ("RV1") was initiated on February 25, 2016 and was completed on

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August 30, 2016. The total project ceiling authorized for the RV1 action was \$150,000, all of which was for mitigation contracting. Another removal action ("RV2") was initiated on July 11, 2017 and was completed on November 16, 2017. A project ceiling increase of \$282,000, of which \$200,000 was for mitigation contracting, was authorized for the RV2 action and the revised total project ceiling authorized was \$432,000, of which \$350,000 was for mitigation contracting. A project ceiling increase of \$52,000, of which \$50,000 was for mitigation contracting, was authorized for the RV3 action described herein. The new total project ceiling authorized for the Site is now \$484,000, of which \$400,000 is for mitigation contracting.

II. SITE INFORMATION

A. Site Description

Site Name:	Deferiet Paper Mill Site (RV3)
Superfund Site ID ("SSID"):	A26F
NRC Case Number:	Not Applicable
CERCLIS Number:	NYD002229269
Site Location:	400 Anderson Avenue Deferiet Village, New York 13628
LAT/LONG:	44.03911°, -75.68075°
Potentially Responsible Party ("PRP"):	Deferiet Development LLC
NPL Status:	Not Listed
Removal Start Date:	October 12, 2018

B. Site Background

1. Removal Site Evaluation ("RSE")

The Site is an industrial property located in Deferiet, New York, surrounded by residential properties and bordered by the Black River. Part of the facility is occupied by Brookfield Renewable Energy Group ("Brookfield") as a power generation facility for a hydroelectric dam in the river. Employees of Brookfield must access the hydropower facility owned by Brookfield via an easement that runs between several dilapidated buildings which were part of the historic on-site paper mill. The Site is not listed on the Superfund National Priorities List ("NPL").

In March 2016, EPA activated and mobilized Emergency and Rapid Response Services ("ERRS") contractors to apply a sealant on asbestos-containing pipe insulation exposed in the easement, as the RV1 removal action, to protect Brookfield employees and the public. In addition, the removal action allowed for the subcontract of an engineering firm to develop a demolition plan, should Site conditions warrant such activity. The RV1 removal action was completed on August 30, 2016. The removal action also recommended an assessment of areas outside of the easement to determine if asbestos was present in building materials, debris piles, partially demolished structures, equipment and other general locations throughout the Site.

On June 6, 2017, EPA and Removal Support Team ("RST") contractors surveyed the Site with personnel from Brookfield. All buildings were observed to be vacant and several structures were partially demolished, had been allowed to fall into disrepair and were impacting the structural integrity of the hydropower plant. Many building facades were observed to have openings from the extraction of large equipment that may have been sold or scrapped. The large complex appeared to be accessed by trespassers routinely, as evidence of such was commonly found throughout the Site. Suspected asbestos-containing material ("SACM") was observed to be exposed to weather conditions, damaged, hanging from numerous structures including equipment and piping, and present on various surfaces and throughout the interior and exterior of the structures.

On June 7, 2017, EPA and RST contractors collected 30 samples of SACM for asbestos analysis. Samples were collected from equipment, debris piles, roofing systems, pipe insulation, equipment jackets, ceiling tiles and debris located throughout the Site. Seven samples (all insulation) were positive for the detection of asbestos, with concentrations ranging from 3.12% - 25% chrysotile, 12.5% crocidolite, and 9.38% - 30% amosite asbestos. Asbestos-containing material ("ACM") was found in the turbine room, boiler room, machine room and wet/beater room.

On May 8, 2018, EPA and RST contractors collected 17 SACM samples for asbestos analysis. Samples were collected from the exposed pipe insulation in the easement area, former company garage building, machine room, and multiple debris piles. Samples of brick and mortar were collected from debris piles. The samples in the easement were collected from pipe insulation that had been encapsulated during RV1 but had since become exposed due to deterioration of the encapsulant. Seven samples (all insulation) were positive for the detection of asbestos, with concentrations ranging from <1.0% - 30.8% chrysotile, 4.88% - 7.69% crocidolite, and 2.56% - 15.8% amosite asbestos. The maximum concentrations found in the easement were 14.30% chrysotile, 7.69% crocidolite, and 15.80% amosite asbestos.

In September and October 2018, EPA was informed by Brookfield that the encapsulant used during RV1 was continuing to deteriorate, exposing larger areas of ACM within the easement. Brookfield personnel indicated that this area is traversed daily to access the hydroelectric building.

The sampling results, along with field observations made by EPA, indicated that conditions at the Site met the criteria for an emergency removal action under CERCLA, as documented in Section 300.415(b)(2) of the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP").

2. Physical location and site characteristics

The Site is an abandoned paper mill located at 400 Anderson Avenue (44.03918056, -75.68388889) in the Village of Deferiet, Jefferson County, New York 13628-0040. The Site consists of several contiguous parcels of land bisected by the Power Canal, a diverted portion of the Black River. Numerous structures associated with the former production of paper remain, including administrative offices, a boiler house, a turbine room, machine areas, garages, raw material processing areas and a wastewater treatment

plant. While the Site measures approximately 128.5 acres, focus of this action is only on Parcel #66.82-1-67, which is approximately 47.49 acres and west of the Power Canal. This parcel consists of various buildings, many of which have been partially demolished, neglected and allowed to fall into disrepair. A hydropower plant operated by Brookfield is situated on the Power Canal, a portion of Parcels ##66.82-1-67 and 76.34-1-1.1, and measures approximately .5 acre.

The Site is currently vacant, with the exception of the hydropower plant located on the Power Canal. North of the Site is a vacant lot, the Village of Deferiet Volunteer Fire Department, the Black River and a landfill currently managed by the New York State Department of Environmental Conservation ("NYSDEC"). To the east of the Power Canal are lands encompassing structures that are former staging areas for raw materials utilized in paper manufacture. Beyond these structures are forested and vegetated lands extending to Route 37, along which residential properties exist. The southern portion of the Site is the location of former coal storage areas, ash ponds, vacant lands and forested areas. The southern boundary of the Site is lined with residential properties along Wilna Avenue. West of the Site are residential properties along Anderson Avenue, one of the main thoroughfares of the Village. The majority of the population in the Village lives west of the Site.

In attempts to keep unauthorized personnel from entering the Site, security fence is present along Anderson Avenue. However, sections of fence were observed to be damaged and evidence of unauthorized access was noticeable. The southern boundary of the Site is not fenced, and trails originating off Wilna Avenue onto the Site indicate frequent trespassing by vehicles and people onto the property. Graffiti and other evidence of trespassing were observed throughout the structures located on-Site.

3. Release or threatened release into the environment of a hazardous substance, pollutant, or contaminant

Analytical data from samples collected at the Site has identified the presence of friable asbestos, a CERCLA hazardous substance as defined in 42 U.S.C. § 9601(14), and is a listed hazardous substance in 40 CFR Table 302.4 of the NCP. The statutory designation for asbestos as a hazardous substance is Section 307(a) of the Clean Water Act and Section 112 of the Clean Air Act. The Site is a facility within the meaning of 42 U.S.C. § 9601(9), and the presence of asbestos in friable form in exterior areas at the Site constitute a "release" as defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

Substances Identified	Maximum Concentration in Easement	Statutory Source for a Hazardous Substance
Asbestos – Chrysotile	14.30%	307(a) CWA, 112 CAA
Asbestos – Crocidolite	7.69%	307(a) CWA, 112 CAA
Asbestos – Amosite	15.80%	307(a) CWA, 112 CAA

III. THREATS TO PUBLIC HEALTH WELFARE OR THE ENVIRONMENT

A. Nature of Actual or Threatened Release of Hazardous Substances, Pollutants or Contaminants

There is an ongoing release of hazardous substances, and pollutants, or contaminants at the Site. Asbestos is designated as a CERCLA hazardous substance under 40 CFR Table 302.4 when friable. Friability is the ease with which a material can be crumbled, pulverized or reduced to powder when dry, by applying hand pressure. The degree of friability of the ACM determines the potential for fibers to be released into the air. Analysis of samples collected from the Site has identified friable asbestos present in the easement traversed by Brookfield personnel to access their hydroelectric building. There is a significant threat to human health for individuals who may come in contact with this uncontrolled release of friable asbestos.

B. Check Applicable Factors (From 40 CFT 300.415) Which Were Considered in Determining the Appropriateness of a Removal Action

- ☒ Actual or potential exposure to nearby human populations, animals or the food chain from hazardous substances, or pollutants, or contaminants [300.415(b)(2)(i)].
- ☐ Actual or potential contamination of drinking water supplies or sensitive ecosystems [300.415(b)(2)(ii)].
- ☐ Hazardous substances or pollutants or contaminants in drums, barrels, tanks, or other bulk storage containers, that pose a threat of release [300.415(b)(2)(iii)].
- ☐ High levels of hazardous substances or pollutants or contaminants in soils largely at or near the surface that may migrate [300.415(b)(2)(iv)].
- ☒ Weather conditions that may cause hazardous substances or pollutants to migrate or be released [300.415(b)(2)(v)].
- ☐ Threat of fire or explosion [300.415(b)(2)(vi)].
- ☒ The lack of availability of other appropriate federal or state response mechanism to respond to the release [300.415(b)(2)(vii)].
- ☐ Other situations or factors that may pose threats to the public health or welfare of the United States or the environment [300.415(b)(2)(viii)].

IV. SELECTED REMOVAL ACTION AND ESTIMATED COSTS

A. Situation and Removal Activities to Date

1. Current situation

On October 12, 2018, EPA activated its ERRS contractor to aid in the performance of a removal action.

2. Removal activities, to date

In March 2016, EPA activated and mobilized ERRS contractors to apply a sealant on asbestos-containing pipe insulation exposed in the easement to protect Brookfield personnel and the public, as part of the RV1 removal action. In addition, RV1 allowed for the subcontract of an engineering firm to develop a demolition plan, should the Site warrant such activity. RV1 was completed on August 30, 2016. This removal action temporarily protected Brookfield personnel from asbestos exposure while traversing the easement. This removal action also recommended an assessment of areas outside of the easement to determine if asbestos was present in building materials, debris piles, partially demolished structures, equipment and other general locations throughout the Site. This removal assessment was completed in June 2017. During the removal assessment, tanks, drums, and other containers that contained CERCLA designated hazardous substances were discovered.

In July 2017, EPA activated and mobilized ERRS and RST contractors to mitigate the potential threat of release of CERCLA hazardous substances from drums and other containers at the Site as the RV2 removal action. During RV2, ERRS stabilized compromised containers, conducted waste profiling activities, transferred waste into shippable drums, bulked compatible materials, overpacked compromised containers, and conducted transportation and disposal ("T&D") activities. More than 150 drums were disposed of off-Site. RV2 was completed on November 16, 2017, when all EPA and ERRS personnel demobilized from the Site.

3. Enforcement

Discussions with known responsible parties were held prior to the RV2 removal action. It was determined that these parties did not have funds available to complete the removal action. Since that time, no additional financial information has been provided and no additional responsible parties have been identified.

B. Planned Removal Actions

1. Proposed Action Description

ERRS was activated for the current removal action on October 12, 2018. Utilizing New York Department of Labor licensed subcontractors, on October 16, 2018, ERRS personnel applied an encapsulant to friable ACM located in the easement that is traversed by Brookfield personnel. RV3 was completed on October 17, 2018, when all EPA and

ERRS personnel demobilized from the Site. Upon completion of this action, Brookfield personnel are, once again, temporarily protected from asbestos exposure while traversing the easement. The total costs to date for mitigation contracting for RV3 are less than \$10,000.

2. Contributions to Remedial Performance

The proposed actions will, to the extent practicable, contribute to the efficient performance of any long-term remedial action at the Site.

3. Applicable or Relevant and Appropriate Requirements (“ARARs”)

Removal actions conducted under CERCLA are required to attain ARARs to the extent practicable. In determining whether compliance with ARARs is practicable, the OSC may consider appropriate factors including the urgency of the situation and the scope of the removal action to be conducted.

ARARs within the scope of this project include 40 CFR Part 61, Section 112(b)(1) of the Clean Air Act (“CAA”) and 40 CFR Part 61, Subpart M of the National Emissions Standards for Hazardous Air Pollutants (“NESHAP”). The CAA and NESHAP requirements were met to the extent practicable. Part 56 of Title 12 of the Official Compilation of Codes, Rules and Regulations of the State of New York (“12 NYCRR Part 56”), also known as Rule 56 Asbestos, were met to the extent practicable. In addition, all hazardous substances, pollutants, or contaminants removed from the Site pursuant to this removal action for off-Site treatment, storage, or disposal were treated, stored, or disposed of in compliance with: (a) Section 121(d)(3) of CERCLA, 42 U.S.C. § 9621(d)(3); (b) Section 300.440 of the NCP; (c) RCRA; (d) the Toxic Substances Control Act, 15 U.S.C. § 2601, et seq.; and (e) all other applicable federal and state requirements.

4. Project schedule

Field operations were completed within one day, on October 16, 2018. Demobilization occurred the following day.

C. Estimated Costs*

Direct Extramural Costs:	Current Funding Ceilings Authorized (RV1 and RV2)	Funding Authorized Verbally by Acting ERRD for RV3 Action on 10/12/18	Proposed New Total Project Ceilings
Total Cleanup Contractor Cost (Includes 20% Contingency)	\$350,000	\$50,000	\$400,000
Removal Support Team, Extramural Costs	\$35,000	\$2,000	\$37,000
Subtotal, Extramural Costs	\$385,000	\$52,000	\$437,000
Extramural Cost Contingency	\$47,000	\$0	\$47,000
Total, Removal Action Project Ceiling	\$432,000	\$52,000	\$484,000

*EPA direct and indirect costs, although cost recoverable, do not count toward the Removal Ceiling for this removal action. Liable parties may be held financially responsible for costs incurred by the EPA as set forth in Section 107 of CERCLA.

V. EXPECTED CHANGE IN THE SITUATION SHOULD ACTION BE DELAYED OR NOT TAKEN

A delay in action or no action at this Site would have increased the actual or potential threats to the public health and/or the environment due to continued weathering or tampering of the protective measures put in place.

VI. OUTSTANDING POLICY ISSUES

None.

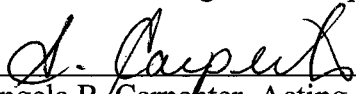
VII. APPROVALS

This decision document represents the selected removal action for this Site, developed in accordance with CERCLA as amended, and is not inconsistent with the NCP. This decision is based on the Administrative Record for the Site. Conditions at the Site met the NCP Section 300.415(b) criteria for a removal action. This document confirms the verbal authorization provided on October 12, 2018, for the removal action at the Deferiet Paper Mill Site (RV3). The total project ceiling authorized for the RV1 action was \$150,000, all of which was for mitigation contracting. A project ceiling increase of \$282,000, of which \$200,000 was for mitigation contracting was authorized for the RV2 action. A project ceiling increase of \$52,000, of which \$50,000 was for mitigation contracting, was authorized for the RV3 action described herein. The new total project ceiling authorized for the Site is now \$484,000, of which \$400,000 is for mitigation contracting.

This project was funded from the Regional Removal Allowance.

**VIII. ENDANGERMENT DETERMINATION UNDER CERCLA SECTION 106:
HAZARDOUS SUBSTANCES**

Actual or threatened releases of hazardous substances from the Site presented an imminent and substantial endangerment to public health, or welfare, or the environment.



Angela B. Carpenter, Acting Director
Emergency and Remedial Response Division

12-6-18

Date

After Approval:

Cc: J. Rotola, ERRD-RAB
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